

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0593P

Income Tax

Calendar Year 1997

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

II. **Tax Administration** – Interest

Authority: IC 6.8-1-10.1

The taxpayer protests the interest assessment.

STATEMENT OF FACTS

The negligence penalty and interest were assessed on an income tax assessment that resulted from a Department system generated billing for the calendar year 1997.

The taxpayer is an information technology company.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer argues the negligence penalty should be waived as the taxpayer mistakenly calculated the correct amount of tax due. This miscalculation was the result of a shortage of personnel.

45 IAC 15-11-2(b) states, “Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

FINDING

The taxpayer's penalty protest is denied.

II. Tax Administration – Interest

DISCUSSION

The taxpayer protests the interest assessed.

IC 6.8-1-10.1 does not allow the waiver of interest. As such, the Department finds the assessment of interest proper and denies the interest protest.

FINDING

The taxpayer's interest protest is denied.